

# EXHIBIT D

<p style="text-align: center;">1</p> <p>1 UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS</p> <p>2</p> <p>3 CIVIL ACTION NO: 20-30036-MGM</p> <p>4</p> <p>5 MAURA O'NEILL, as Administrator of the Estate of Madelyn E. Linsenmeir, 6 Plaintiff</p> <p>7 VS.</p> <p>8 CITY OF SPRINGFIELD, MOISES ZAMAZANIAN, REXINGTON McNABB, SHEILA RODRIGUEZ, 9 HAMPDEN COUNTY SHERIFF'S DEPARTMENT, EILEEN BARRETT and MAUREEN COUTURE, 10 Defendants</p> <p>11</p> <p>12</p> <p>13 VIDEOCONFERENCE DEPOSITION OF: SIMEON KIMMEL, M.D. M.A. Taken before Julia A. McLeod, Shorthand Reporter and 14 Notary Public, pursuant to the Federal Rules of Civil Procedure via Zoom Meeting at 10:00 a.m., Friday, 15 April 5, 2024.</p> <p>16</p> <p>17 <u>APPEARANCES:</u></p> <p>18 (Please, see page two.)</p> <p>19</p> <p>20</p> <p>21 Julia A. McLeod PHILBIN &amp; ASSOCIATES, INC. 22 75 Market Place Springfield, MA 01103 23 (413) 733-4078</p>	<p style="text-align: right;">3</p> <p>1 INDEX</p> <p>2</p> <p>3 -----</p> <p>4 WITNESS DIRECT CROSS REDIRECT RECROSS</p> <p>5 -----</p> <p>6 Dr. Simeon Kimmel 5 (Day)</p> <p>7</p> <p>8</p> <p>9</p> <p>10 -----</p> <p>10 EXHIBITS: DESCRIPTION PAGE</p> <p>11 -----</p> <p>12</p> <p>13 (NONE)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 *****</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
<p style="text-align: center;">2</p> <p>1 <u>REMOTE APPEARANCES:</u></p> <p>2</p> <p>3 AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MASSACHUSETTS, One Center Plaza, Suite 850, Boston, Massachusetts 02108 representing the Plaintiff, 4 Maura O'Neill, as Administrator of the Estate of Madelyn E. Linsenmeir, 5 BY: DANIEL L. McFADDEN, ESQUIRE dmcfadden@aclum.org</p> <p>6</p> <p>7 GOULSTON &amp; STORRS, P.C., 400 Atlantic Avenue, Boston, Massachusetts 02110 representing the Plaintiff, 8 Maura O'Neill, as Administrator of the Estate of Madelyn E. Linsenmeir, 9 BY: KIMAN KAUR, ESQUIRE kkaur@goulstonstorr.com</p> <p>10</p> <p>11 LAW OFFICES OF EGAN, FLANAGAN &amp; COHEN, P.C., 67 Market Street, Springfield, Massachusetts 01103, representing 12 the Defendant Hampden County Sheriff's Department, Eileen Barrett and Maureen Couture. 13 BY: THOMAS E. DAY, ESQUIRE kdw@efclaw.com 14 MICHAEL G. McDONOUGH, ESQUIRE mgm@efclaw.com</p> <p>15</p> <p>16 <u>In attendance Intermittently via iPhone:</u></p> <p>17 Maura O'Neill</p> <p>18</p> <p>19</p> <p>20</p> <p>21 *****</p> <p>22</p> <p>23</p>	<p style="text-align: right;">4</p> <p>1 STIPULATIONS</p> <p>2</p> <p>3 It is agreed by and between the parties that all</p> <p>4 objections, except objections as to the form of the</p> <p>5 question, are reserved to be raised at the time of trial</p> <p>6 for the first time.</p> <p>7</p> <p>8 It is further agreed by and between the parties</p> <p>9 that all motions to strike unresponsive answers are also</p> <p>10 reserved to be raised at the time of trial for the first</p> <p>11 time.</p> <p>12</p> <p>13 It is further agreed that the deponent will read</p> <p>14 and sign the deposition under the pains and penalties of</p> <p>15 perjury, notary waived, and that the sealing of the said</p> <p>16 deposition will be waived.</p> <p>17</p> <p>18 It is further agreed by and between the parties</p> <p>19 that notification to all parties of the receipt of the</p> <p>20 original deposition transcript is also hereby waived.</p> <p>21</p> <p>22 *****</p> <p>23</p>

<p style="text-align: right;">213</p> <p>1 <b>A. Let me review, look back at my report.</b></p> <p>2 <b>She was asked if she had any cardiac issues, but</b></p> <p>3 <b>she was not asked if she had chest pain.</b></p> <p>4 <b>Q.</b> Okay. What was her answer to the question of</p> <p>5 whether she had cardiac issues?</p> <p>6 <b>A. No.</b></p> <p>7 <b>Q.</b> Okay. So let me just ask you:</p> <p>8 Now having reviewed your report, having gone</p> <p>9 back and reviewed your report, are you aware of any</p> <p>10 evidence that Madelyn Linsenmeir ever reported chest</p> <p>11 pain to a nurse while she was at the WCC?</p> <p>12 <b>A. No.</b></p> <p>13 <b>Q.</b> On page ten -- I would ask you to turn to page</p> <p>14 ten. Under the heading October 4th, the second</p> <p>15 paragraph reads --</p> <p>16 Well, let me say this. Feel free to read over</p> <p>17 the second paragraph that starts with the medical record</p> <p>18 notes.</p> <p>19 Do you see that?</p> <p>20 <b>A. Yes.</b></p> <p>21 <b>Q.</b> Okay. So I'm going to ask you a few questions</p> <p>22 about this. I'm not going to take very long with it.</p> <p>23 But, if at any point you want to stop and read the</p>	<p style="text-align: right;">215</p> <p>1 had reported both opioid and alcohol use?</p> <p>2 <b>MR. McFADDEN:</b> Tom, are you asking about</p> <p>3 the whole paragraph or that first sentence?</p> <p>4 <b>Q.</b> I'm asking about your opinion, Doctor, whether</p> <p>5 it be in that paragraph or anywhere else in your report.</p> <p>6 Is it your opinion that there was something</p> <p>7 wrong with Julie Belle-Isle ruling out overdose as a</p> <p>8 possible -- as a differential diagnosis in the case that</p> <p>9 she was presented?</p> <p>10 <b>A. So Julie Belle-Isle, Ms. Belle-Isle, initiated</b></p> <p>11 <b>an emergency response protocol appropriately, and then</b></p> <p>12 <b>later documented what her differential diagnosis was.</b></p> <p>13 <b>And the drug overdose, while it's reasonable for</b></p> <p>14 <b>that to be on a differential diagnosis, is -- typically</b></p> <p>15 <b>when people have a drug overdose, they have slowed</b></p> <p>16 <b>respiratory rate, not rapid respiratory rate. And that</b></p> <p>17 <b>made me think that Ms. Belle-Isle was, in her thinking</b></p> <p>18 <b>about the case, not on how she actually physically</b></p> <p>19 <b>responded and initiated emergency protocol, but in</b></p> <p>20 <b>thinking about the case was thinking about her in the</b></p> <p>21 <b>context of someone who had a substance use disorder and</b></p> <p>22 <b>was being treated for withdrawal.</b></p> <p>23 <b>Q.</b> Okay. So when somebody -- have you ever worked</p>
<p style="text-align: right;">214</p> <p>1 entire paragraph, of course feel free to do so.</p> <p>2 But is it fair to say that in this paragraph you</p> <p>3 are criticizing nurse Julie Belle-Isle?</p> <p>4 <b>MR. McFADDEN:</b> Objection.</p> <p>5 <b>THE WITNESS:</b> No. I'm not criticizing her.</p> <p>6 I'm noting what she documented as the likely diagnoses.</p> <p>7 <b>Q.</b> Okay. And so it would be wrong to interpret</p> <p>8 this paragraph in any way as criticizing the care that</p> <p>9 Julie Belle-Isle provided to Madelyn Linsenmeir in any</p> <p>10 way. Is that fair?</p> <p>11 <b>MR. McFADDEN:</b> Objection.</p> <p>12 <b>THE WITNESS:</b> I think Ms. Belle-Isle</p> <p>13 responded to the emergency and provided emergency</p> <p>14 support. And I see what she noted in her medical</p> <p>15 documentation, and noted that things other than -- that</p> <p>16 two of the three leading diagnoses were related to</p> <p>17 substance use principally.</p> <p>18 <b>Q.</b> Right. But you are not --</p> <p>19 <b>A. The emergency care she provided -- I think the</b></p> <p>20 <b>emergency care she provided was appropriate.</b></p> <p>21 <b>Q.</b> Okay. Is it your medical opinion that there was</p> <p>22 a problem with Julie Belle-Isle ruling out overdose with</p> <p>23 a patient that is semiconscious and has a documented --</p>	<p style="text-align: right;">216</p> <p>1 in a correctional environment?</p> <p>2 <b>A. I have shadowed clinicians in correctional</b></p> <p>3 <b>environments.</b></p> <p>4 <b>Q.</b> And when was that?</p> <p>5 <b>A. The treating physician. When I was working with</b></p> <p>6 <b>Doctor Jody Rich in Rhode Island. And during my</b></p> <p>7 <b>residency I did a correctional health rotation, and</b></p> <p>8 <b>shadowed some physicians who were providing care in the</b></p> <p>9 <b>correctional setting.</b></p> <p>10 <b>Q.</b> Okay. And when was the last time you were in</p> <p>11 the correctional environment shadowing somebody else?</p> <p>12 <b>MR. McFADDEN:</b> Objection.</p> <p>13 <b>THE WITNESS:</b> During my residency.</p> <p>14 <b>Q.</b> And you write the fact that Ms. Belle-Isle</p> <p>15 investigated a potential OD, notwithstanding vital</p> <p>16 statistics that were directly contrary to an OD,</p> <p>17 suggests that Ms. Belle-Isle anchored her investigation</p> <p>18 on Ms. Linsenmeir's substance use without considering or</p> <p>19 investigating alternative causes of her symptoms.</p> <p>20 Do you see that?</p> <p>21 <b>A. I do see that.</b></p> <p>22 <b>Q.</b> Did you write that?</p> <p>23 <b>A. Yes.</b></p>

<p style="text-align: right;">217</p> <p>1 Q. Okay. And what is the basis -- what is the</p> <p>2 factual basis for your conjecture as to what</p> <p>3 Ms. Belle-Isle anchored her investigation in and what</p> <p>4 she did not consider?</p> <p>5 MR. McFADDEN: Objection.</p> <p>6 THE WITNESS: When one writes a medical</p> <p>7 note and includes a differential diagnosis, that</p> <p>8 information is meant to convey one is thinking about the</p> <p>9 clinical case.</p> <p>10 And she writes these three things as her</p> <p>11 immediate things that she is thinking should be ruled</p> <p>12 out.</p> <p>13 Q. Okay. And considering Ms. Linsenmeir's reported</p> <p>14 history, was it appropriate for Ms. Belle-Isle to rule</p> <p>15 out opioid withdrawal?</p> <p>16 A. Yes.</p> <p>17 Q. When considering Ms. Linsenmeir's clinical</p> <p>18 presentation, was it appropriate for Ms. Belle-Isle to</p> <p>19 rule out internal bleeding?</p> <p>20 A. Yes.</p> <p>21 Q. And considering Ms. Linsenmeir's history,</p> <p>22 reported history, with substance use and the fact that</p> <p>23 she was in a correctional environment, was it</p>	<p style="text-align: right;">219</p> <p>1 is that her response, her emergency medical response,</p> <p>2 including providing oxygen and initiating additional</p> <p>3 support was appropriate.</p> <p>4 In terms of the treatment that she provided and</p> <p>5 calling for help and, you know, calling for EMS, that</p> <p>6 was appropriate.</p> <p>7 I'm commenting on the fact that drug overdose is</p> <p>8 the third thing on her list when the clinical picture is</p> <p>9 not consistent with a drug overdose because one doesn't</p> <p>10 have a respiratory rate of fifty when one is having a</p> <p>11 drug overdose, and makes me think that she was thinking</p> <p>12 about Madelyn as someone who is receiving treatment for</p> <p>13 her substance use or for her withdrawal, but not</p> <p>14 considering alternative things that might be leading to</p> <p>15 her symptoms.</p> <p>16 Q. Okay. But you don't have enough professional</p> <p>17 experience to have an informed opinion as to how serious</p> <p>18 drug overdose is as a risk in a correctional</p> <p>19 environment. Correct?</p> <p>20 MR. McFADDEN: Objection.</p> <p>21 THE WITNESS: Drug overdose is a big risk</p> <p>22 in lots of places. I have a lot of experience</p> <p>23 responding to drug overdoses. And I work very closely</p>
<p style="text-align: right;">218</p> <p>1 appropriate for Ms. Belle-Isle to rule out that she --</p> <p>2 and in light of her clinical presentation, was it</p> <p>3 appropriate for Ms. Belle-Isle to rule out drug</p> <p>4 overdose?</p> <p>5 A. I think it's appropriate for that to be on the</p> <p>6 list of things that she was thinking about.</p> <p>7 Q. And if it's on the list, it would only be on the</p> <p>8 list to rule it out or not rule it out. Correct?</p> <p>9 MR. McFADDEN: Objection.</p> <p>10 THE WITNESS: It's on the list because it</p> <p>11 was on her differential diagnosis.</p> <p>12 Q. And you don't have any problem with that.</p> <p>13 Correct?</p> <p>14 A. I think there are alternative diagnoses that are</p> <p>15 more likely.</p> <p>16 Q. Okay. But do you have a problem with -- well,</p> <p>17 first of all, you are not giving an opinion as to</p> <p>18 Ms. Belle-Isle's treatment of Madelyn Linsenmeir.</p> <p>19 Correct?</p> <p>20 A. That's correct.</p> <p>21 MR. McFADDEN: Objection.</p> <p>22 Q. But that's correct?</p> <p>23 A. I'm giving opinions of the -- well, my opinion</p>	<p style="text-align: right;">220</p> <p>1 with people who train and respond to drug overdoses. So</p> <p>2 I'm basing my opinion on my experience responding to</p> <p>3 drug overdoses and what I know about the emergency</p> <p>4 protocols related to drug overdose.</p> <p>5 Q. Okay. And what you do, if you determine that</p> <p>6 somebody is in a drug overdose, the overdose and drugs</p> <p>7 or opioids, at least is you institute harm reduction</p> <p>8 procedures. Correct?</p> <p>9 MR. McFADDEN: Objection.</p> <p>10 THE WITNESS: The most important thing to</p> <p>11 do when someone experiences an overdose is preserve</p> <p>12 oxygen supply to the brain.</p> <p>13 Q. And that would be a harm reduction procedure.</p> <p>14 Correct?</p> <p>15 A. That would be medical treatment.</p> <p>16 Q. And how would you do that?</p> <p>17 A. How would you provide oxygen to the brain?</p> <p>18 Q. Yes.</p> <p>19 A. There are several ways to try to improve</p> <p>20 oxygenation. If you have access to supplemental oxygen</p> <p>21 and someone is breathing, breathing some, you provide</p> <p>22 supplemental oxygen.</p> <p>23 The community standard is now to also start CPR,</p>

<p style="text-align: right;">221</p> <p>1 <b>which can create some ventilation for patients, and then</b></p> <p>2 <b>also to give Naloxone.</b></p> <p>3 Q. And that was one of the things that you</p> <p>4 mentioned earlier in the deposition as harm reduction,</p> <p>5 Naloxone. Right?</p> <p>6 MR. McFADDEN: Objection.</p> <p>7 THE WITNESS: Naloxone distribution as a</p> <p>8 practice is a strategy to reduce the harms of -- to</p> <p>9 reduce the risk of fatal overdose.</p> <p>10 In an individual setting with a patient in</p> <p>11 front of you, this is delivering lifesaving treatment</p> <p>12 potentially.</p> <p>13 Q. Okay. So is it fair to say that you could not</p> <p>14 provide an opinion as to Ms. Belle-Isle's treatment of</p> <p>15 Ms. Linsenmeir because you are not familiar with nursing</p> <p>16 standards? Correct?</p> <p>17 MR. McFADDEN: Objection.</p> <p>18 THE WITNESS: I'm familiar with emergency</p> <p>19 response standards. And I think Ms. Belle-Isle, she</p> <p>20 prioritized oxygenation. She called for help. I think</p> <p>21 that her treatment was appropriate.</p> <p>22 Q. Okay. Did you read -- I think you listed on</p> <p>23 your list the deposition of Officer Phipps?</p>	<p style="text-align: right;">223</p> <p>1 <b>she leaves. So maybe a minute.</b></p> <p>2 Q. And when she pokes her head off to the side,</p> <p>3 where is she poking her head?</p> <p>4 A. <b>I think she -- I think she says that that may be</b></p> <p>5 <b>where she conveys -- she would have conveyed the</b></p> <p>6 <b>information about the stairwell.</b></p> <p>7 Q. Okay. And is that the basis of your</p> <p>8 understanding on which you base your opinion with regard</p> <p>9 to what Ms. Couture may have known?</p> <p>10 MR. McFADDEN: Objection.</p> <p>11 THE WITNESS: That's one piece of</p> <p>12 information.</p> <p>13 Q. Are there any other pieces of information?</p> <p>14 A. <b>Well, Ms. Couture had a conversation with</b></p> <p>15 <b>Ms. Linsenmeir.</b></p> <p>16 <b>Ms. Couture had seen Ms. Linsenmeir the day</b></p> <p>17 <b>before, or maybe it was two days before.</b></p> <p>18 Q. Did you watch that video of the two of them</p> <p>19 interacting two days before?</p> <p>20 A. <b>I believe I did. I didn't watch it in</b></p> <p>21 <b>preparation for this deposition though.</b></p> <p>22 Q. Okay. So from what you remember of that video,</p> <p>23 was there any indication that Madelyn -- as to what</p>
<p style="text-align: right;">222</p> <p>1 A. <b>Yes.</b></p> <p>2 Q. And Officer Phipps was the only person in the</p> <p>3 stairwell with Madelyn Linsenmeir on October 2nd.</p> <p>4 Correct?</p> <p>5 A. <b>That's correct.</b></p> <p>6 Q. And Officer Phipps did not testify than</p> <p>7 Madelyn Linsenmeir was experiencing shortness of breath</p> <p>8 on October 2nd while she was in the stairwell. Correct?</p> <p>9 A. <b>I don't remember.</b></p> <p>10 Q. Okay. You state in your opinion -- this is on</p> <p>11 page eight under October 2nd, subsection E.</p> <p>12 You say: Ms. Phipps testified that she would</p> <p>13 have conveyed information about Ms. Linsenmeir's fall</p> <p>14 and difficulty climbing stairs when she was brought to</p> <p>15 the infirmary.</p> <p>16 Do you see that?</p> <p>17 A. <b>I do see that.</b></p> <p>18 Q. Okay. How long was Ms. Phipps in the Medical</p> <p>19 Department with Ms. Couture on that day?</p> <p>20 A. <b>I think there's a door entering into medical.</b></p> <p>21 <b>And then she is seen kind of poking her head in off to</b></p> <p>22 <b>the side, just outside of where the medical facility is.</b></p> <p>23 <b>And then she walks in with Madelyn. And then I believe</b></p>	<p style="text-align: right;">224</p> <p>1 Madelyn and Maureen Couture were talking about on</p> <p>2 September 30th on that video?</p> <p>3 MR. McFADDEN: Objection. Tom, I'm sorry.</p> <p>4 You are referring solely to the video, not any other</p> <p>5 information?</p> <p>6 MR. DAY: I'm referring solely to the</p> <p>7 video.</p> <p>8 THE WITNESS: I don't remember.</p> <p>9 Q. Okay. And are you aware of any other</p> <p>10 information that would indicate anything that Madelyn</p> <p>11 and Ms. Couture discussed on September 30th?</p> <p>12 A. <b>On September 30?</b></p> <p>13 Q. Yes.</p> <p>14 A. <b>There's a medical note on September 30th.</b></p> <p>15 Q. So other than Ms. Couture's medical note and</p> <p>16 what you see on that video, is there any other</p> <p>17 indication of what Madelyn and Ms. Couture discussed on</p> <p>18 September 30th?</p> <p>19 A. <b>There is deposition information, as well.</b></p> <p>20 Q. Okay. Whose deposition?</p> <p>21 A. <b>Ms. Couture and Ms. Wisnaskas.</b></p> <p>22 Q. Okay. Other than that, is there anything else,</p> <p>23 any other information that you can base your knowledge</p>